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TRANSFERRING UNION REGULATION TO ASIC

Recent events highlighting the lax governance structures in place at the National and Victoria Number 1 branches of the Health Services Union have sparked a debate over the efficacy of the *Fair Work (Registered Organisations) Act 2009*.

A new report prepared by the Institute of Public Affairs Work Reform and Productivity Unit proposes switching the regulation of Australian trade unions to the *Corporations Act 2001*. This would offer improved financial reporting obligations and increased transparency. Union members would be better informed as to the operation, both financial and otherwise, of their union.

“Under the *Fair Work (Registered Organisations) Act 2009* unions are subject to minimal requirements in relation to financial reporting and internal governance structures. This has allowed unions to meet their legal obligations in a highly flexible manner,” said John Lloyd, Director Work Reform and Productivity Unit.

“The compliance regime surrounding the internal governance of unions is deficient and penalties are rarely pursued for contraventions.

“Many unions control assets worth millions of dollars and earn annual revenue in excess of many corporations. Larger unions assume a financial size that if classified as proprietary companies, they would be categorised as large corporations and subjected to stringent reporting requirements,” said Mr Lloyd.

“For the 2010-11 financial year, 46 per cent of financial documents were lodged with Fair Work Australia incomplete and were unable to be processed within the target 28-day timeframe. By contrast, despite the more onerous standards demanded under the *Corporations Act*, 95 per cent of company data for the 2010-11 financial year was lodged on time.

“The regulation of unions has been lenient and this is reflected in standards of compliance and conduct. The *Corporations Act* imposes strict governance and reporting guidelines. Enabling ASIC to regulate trade unions under the *Corporations Act* will ensure greater accountability and transparency, and will protect members from financial mismanagement by union officers. Substantially higher penalties are available for contraventions. A rigorous regulatory scheme would apply.”

The report, titled “Australian Trade Unions: An Alternate Regulatory Approach” is available at www.ipa.org.au.

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